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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,700	05/30/2000	Larry Swift	061606-8470	2168

7590 03/30/2004

Scott A Horstemeyer
Thomas Kayden Horstemeyer & Risley LLP
Suite 1750
100 Galleria Parkway NW
Atlanta, GA 30339-5948

EXAMINER

THANGAVELU, KANDASAMY

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 03/30/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application

09/580,700

Applicant(s)

SWIFT, LARRY

Examiner

Kandasamy Thangavelu

Art Unit

2123

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


SAMUEL BRODA, ESQ.
PRIMARY EXAMINER

Continuation of 2. NOTE: 1. Applicant has argued that the Hassell reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to assignment to the same person and so cannot be used as a 103 (a) reference under 35 USC 103 (c). The applicant failed to make this argument in the amendment dated November 17, 2003. This is a new argument which requires further search and consideration.

2. Specification, Page 16, Lines 4-20 state that "In the preferred embodiment, a summary period includes the days and the times of the day that are of interest. For example, as will be described in greater detail in Fig. 4, a summary period may be defined as the days Monday through Friday, and hours between 8:00 a.m. and 5:00 p.m. ... a reporting period could include five summary periods (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and a specification of the starting date of each summary period (five consecutive Mondays). Fig. 4 shows summary period: Mon-Fri, 8:00 A.M. to 5:00 P.M. It is clear from the specification and Fig. 4 that "summary period" as discussed in the specification requires two components - a range of days and periods within each day. The applicant in the amendment dated November 17, 2003, claimed summary period as "each said summary period corresponds to a portion of a day, and wherein said portion is less than a day". This is only one of the two elements specified in the specification. There is no support for this limitation in the specification. Therefore, the examiner maintains that his rejection of the amended claims under 35 USC 112 First Paragraph has statutory basis.

3. Previous 102 and 103 were made with reference to the claimed subject matter supported by the specification. No patentable weight was given to the claim amendments.